

**In the Court of Extra Joint District Judge and Additional Sessions
Judge, Malegaon, Dist. Nashik.**

State of Maharashtra,
Through Nandgaon Police
Station, Taluka Nandgaon,
District Nashik.

..Complainant.

Vs.

Samadhan Digambar Pawar.

..Accused.

Order below Ex. 04 in Session Case No. 88/2020

1. Read application filed by accused-Samadhan Digambar at Ex.04 and then, read the say of learned A.P.P. to this application at Ex.05.
2. This application is so made by this accused u/sec. 439 of Cr. P.C. 1073 to release him on bail in connection with this offence, C.R. No. 251/2020 registered against him at Nandgaon Police Station, for all such offences punishable u/sec. 376-AB of I.P.C. and u/sec. 5, r/w. 6 of the Protection of Children from Sexual Offences Act, 2012.
3. Heard both the sides. Advocate for accused submitted that, this is the first bail application of this accused and in fact, he has not committed any such offence as alleged against him and before this, he never had any involvement in any such offence or in other offences and now, the investigation is complete and the charge-sheet has also been filed; but then, this accused is the only earning member in his family and his aged parents as well the entire family are dependent on him. He submitted that this accused is a local resident and therefore, he would not abscond and if any serious conditions are also imposed on him, he would abide by all those conditions, but he should be released on bail and further there has

been a long detention of him since the date of alleged offence and there is also threats to the personal life of this accused, considering the virality of Covid-19. He further submitted that, the age of this victim is, though, shown to be minor, still there is no authentic record about her age and further, there is a delayed complaint against him and therefore, if this accused is released on bail, it would meet the ends of justice.

3. On the other hand, learned A.P.P. strongly opposed this application with a submission that, this accused is a near relative of complainant and he was well-versed with such relationship of him with the victim, a minor girl, still he committed a very serious offence of aggravated sexual assault and due to his such alleged act, she became pregnant and carrying some 19 weeks, when her grand-mother learnt about any such act of accused, for the first time and thereafter only, such a complaint against him came to be given by that grand-mother, Yeshodabai. He drew my attention to the police statement of the minor Shakuntala Mayub @ Ramdas Sonawane and then, further submitted that this all would show the true nature of alleged act of accused and then, he further drew my attention to the report of the Forensic Laboratory, Nashik dated 07.10.2020 and submitted that, it shows that this accused is the biological father of the fetus found with this minor-victim. He submitted that if this accused is released on bail, it would be a total threat to the life of the minor victim as well the complainant and other relatives of her and the entire case of prosecution is going against this accused for all such offences and so, this is not a case for releasing this accused on bail for any such reasons submitted by advocate for accused and he urged for rejection of the application.

4. After hearing both the sides and going through the entire record of

the prosecution case, it needs to be noted that, though otherwise, this is a first bail application of this accused, still he has committed such a serious offence in relation to this minor-victim and though otherwise, he was in relation with complainant as well with minor-victim, still he dared to commit such a serious offence, just to satisfy his lust and nothing more and not only that, whatever is submitted by learned A.P.P. as to the report of Forensic Laboratory dated 07.10.2020 is totally going against this accused and it shows, without reserving any point that, at the first sight, he has committed all such serious offences of raping and penetrative sexual assault with the minor-victim and he is a biological father of the fetus found with the minor victim. Not only that, complainant is a very old woman, 60 years' old and further, an illiterate woman whose disadvantage is taken by this accused and then committed such heinous act with the minor-victim and further, that minor-victim has also affirmed with all such alleged acts of this accused while recording her statement before the police in the presence of respected woman Sangita Santosh, dated 16.06.2020. This is not a case where accused can make such a request for bail, how far his personal difficulties may be there and not only that, the statement of one of his friend, namely, Dattu recorded by police on 20.06.2020 clearly shows that, accused has confessed before him as to his all such alleged acts of rape and sexual assault and it all affirming a very strong evidence against him. The submission of learned advocate for accused as to such age of minor victim is concerned, it is true that in her school leaving certificate, her birth date is shown to be 16.09.2008, but then in the copy of her Adhar-Card that birth date is shown to be 10.06.2006 and there is some difference in mentioning the birth date of her showing her to be of the age of 12 years or otherwise 14 years. The question is whether she was not minor at the material time of alleged incident and to that, there is no explanation from the side of accused and

that discrepancy appearing in the age of the minor victim is not relevant as much, making any such request for bail. So considering all this, there is no substance in the application and the apprehension felt by the prosecution is also very serious and considering the entire facts and circumstances on record, the application needs to be rejected. So, in the interest of justice, application is rejected.

Place : Malegaon.
Date : 10.08.2021.

(S.C. Magare)
Extra Joint District Judge and
Additional Sessions Judge,
Malegaon.